

11881-A
RECORDATION NO. Filed 1425
JUN 9 1980-3 35 PM
INTERSTATE COMMERCE COMMISSION
0-161A186
JUN 9 1980
Date 10.00
CC Washington, D. C.
June 10, 1980
11881-A

Interstate Commerce Commission
Washington, D. C.

Gentlemen:

Enclosed for recordation under the provisions of 49 U.S.C. 11303 (formerly Section 20(c)) of the Interstate Commerce Act, as amended, are the original and 4 10 counterparts of an Assignment of Lease and Agreement dated as of May 15, 1980 and the Lessee's Consent and Agreement pertaining thereto. *The Equipment Lease dated as of May 15, 1980 was recorded at 3:15 P.M. on June 9, 1980 and assigned Recordation Number 11881*

A general description of the railroad rolling stock covered by the enclosed documents is set forth in Exhibit A attached to this letter and made a part hereof.

The names and addresses of the parties are:

Lessor: Continental Illinois National Bank
and Trust Company of Chicago,
as Trustee under Consumers Power
Trust No. 80-1
30 North LaSalle Street
Chicago, Illinois 60693

RECEIVED
JUN 9 3 32 PM '80
I.C.C.
FEE OPERATION BR.

Assignee: Mercantile-Safe Deposit and Trust Company
Two Hopkins Plaza
P.O. Box 2258
Baltimore, Maryland 21203

The undersigned is the Lessor mentioned in the enclosed documents and has knowledge of the matters set forth therein.

Please return the original and 9 copies of the Assignment of Lease and Agreement and the Lessee's Consent and Agreement pertaining thereto to Robert C. Nash, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Enclosed is a check in the amount of \$50.00 covering the filing fee.

Very truly yours,

CONTINENTAL ILLINOIS NATIONAL
BANK AND TRUST COMPANY OF
CHICAGO, as Trustee under
Consumers Power Trust No. 80-1

By

[Signature]
TRUST OFFICER

Enclosures

DESCRIPTION OF UNITS OF EQUIPMENT

Manufacturer of Equipment:	Pullman Incorporated (Pullman Standard Division)
Description and Mark and Number of Units of Equipment:	Seven hundred (700) 4,100 cubic foot, 54'7" long, high side, flat bottom, open top, gondola cars marked and numbered CPOX 1200 to CPOX 1899, both inclusive
Maximum Aggregate Lessor's Cost of Equipment:	\$43,000 per Unit (\$30,100,000 for 700 Units)
Place of Delivery:	Kentucky
Outside Delivery Date:	December 1, 1980

Interstate Commerce Commission
Washington, D.C. 20423

6/9/80

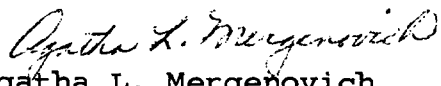
OFFICE OF THE SECRETARY

Robert C. Nash, Esq
Chapman & Cutler
111 West Monroe Street
Chicago, Illinois 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **6/9/80** at **3:35pm**, and assigned re-recording number(s). **11881-A**

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

11881A
RECORDATION NO. Filed 1425

JUN 9 1980 - 3 35 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT dated as of May 15, 1980 (this "Assignment"), by and between CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not individually but solely as owner trustee (the "Lessor") under a Trust Agreement (the "Trust Agreement") dated as of May 15, 1980, with Thirteenth HFC Leasing Corporation (the "Owner Participant"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as agent (hereinafter in its capacity as such Agent, together with any successors and assigns, called the "Assignee") for the holders from time to time of the Series A, B and C Secured Notes due 1996 (hereinafter collectively called the "Notes"), issued pursuant to the Note Purchase Agreement dated as of the date hereof (the "Note Purchase Agreement") among the Lessor, the Owner Participant, HFC Leasing, Inc., the Assignee, Connell Rice & Sugar Co., Inc., and Canadian Imperial Bank of Commerce.

WHEREAS the Lessor and Consumers Power Company (the "Lessee") have entered into an Equipment Lease (the "Lease") dated as of May 15, 1980, providing for the acquisition by the Lessor of the units of railroad equipment (the "Equipment") described in Exhibit A to the Lease and the leasing by the Lessor to the Lessee of the Equipment;

WHEREAS the Lessor is entering into a Security Agreement dated as of the date hereof (the "Security Agreement") with the Assignee; and

WHEREAS, in order to provide security for the obligations of the Lessor under the Note Purchase Agreement, the Lessor agrees to assign for security purposes, to the extent herein provided, its rights in, to and under the Lease to the Assignee.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers, grants a

security interest in and sets over unto the Assignee, as collateral security for the payment and performance of the obligations of the Lessor under the Note Purchase Agreement and the Security Agreement, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease (other than those payments provided for under §§ 5(a), 6, 7(b) and 19 of the Lease which are payable to or for the benefit of the Owner Participant or the institution serving as Owner Trustee in its individual capacity and other than those payments provided for under §§ 8(b)(ii) and 22(c) (but with respect to 22(c) only so long as no default or event of default under the Security Agreement has occurred ~~as~~ ^{and} is continuing) of the Lease), including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease, whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys so assigned being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Assignee in its own name, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Assignee agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Assignee will apply such Payments to satisfy the obligations of the Lessor under the Note Purchase Agreement and the Security Agreement, and any balance shall be promptly paid, subject to the provisions of the Security Agreement, so long as no event of default or event which with the lapse of time or notice or both would constitute an event of default under the Security Agreement shall have occurred and be continuing, to the Lessor by wire transfer of immediately available funds at such address as may be specified to the Assignee in writing, or if no such address is specified, by check promptly mailed to the Lessor and such balance shall be retained by the Lessor; provided, however, that if an event of default or event which with the lapse of time or notice or both would constitute an event of default under the Security Agreement shall have occurred and be continuing, no portion of any such Payments shall be paid to the Lessor. The Assignee shall promptly notify the

Lessor, the Lessee and the Owner Participant by telegraph (promptly confirmed in writing) at their respective addresses set forth in the Lease or the Note Purchase Agreement, as the case may be, if the Assignee shall not receive any rental payment under the Lease when due; provided, however, that the failure of the Assignee to so notify the Lessor and the Lessee shall not affect the obligations of the Lessor hereunder or under the Note Purchase Agreement or the Security Agreement.

2. This Assignment is executed only as security and shall not subject the Assignee to, or transfer, pass, or in any way affect or modify, the liability of the Lessor under the Lease, it being agreed that notwithstanding this Assignment all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee against, and only against, the Lessor or persons other than the Assignee.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Assignee, the Lessor will not anticipate the rents under the Lease (except as expressly permitted by Section 4(a)(ii) of the Lease) or waive or in any manner release the Lessee of or from the obligations, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein, or enter into any agreement amending, modifying or terminating the Lease, and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Assignee the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to demand, receive and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Assignee may seem to be necessary or advisable in the premises.

5. When all the Notes shall have become due and payable (whether by lapse of time or by acceleration or by the exercise of the privilege of prepayment), if the Lessor shall (subject to the provisions of the Note Purchase Agreement and Security Agreement) pay or cause to be paid the full

amount due for principal, interest and premium, if any, on the Notes and if the Lessor shall also pay or cause to be paid all other sums payable to the Assignee or the holders of the Notes at that time outstanding pursuant to the Note Purchase Agreement and any other documents contemplated thereby, then and in that case and upon the written request of the Lessor, this Assignment and all rights herein assigned to the Assignee shall terminate, and all estate, right, title and interest of the Assignee in and to the Lease shall revert to the Lessor.

6. The Lessor will pay or discharge any and all claims, liens, charges or security interests (other than those created by the Security Agreement) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or its successors or assigns (other than the Assignee), not arising out of the transactions contemplated by the Note Purchase Agreement, the Security Agreement or the Lease (but, including tax liens arising out of the receipt of the income and proceeds from the Equipment) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Assignee's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Assignee, adversely affect such interests of the Assignee.

7. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Assignee in order to confirm or further assure the interest of the Assignee hereunder.

8. The Assignee may, subject to the last paragraph of Article XI of the Note Purchase Agreement, assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such assignee shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The Assignee will give prompt written notice to the Lessor and the Lessee of any such assignment.

9. This Assignment shall be governed by the laws of the State of Illinois, but the parties shall be entitled

to all rights conferred by 49 U.S.C. § 11303.

10. The Lessor shall cause copies of all notices received in connection with the Lease and all Payments thereunder to be promptly delivered or made to the Assignee at its address set forth in the Security Agreement or at such other address as the Assignee shall designate.

11. The Assignee hereby agrees with the Lessor that, so long as no event of default or event which with the lapse of time or notice or both would constitute an event of default under the Security Agreement has occurred and is then continuing, the Assignee will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Assignee by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the Security Agreement, the Lessor may, so long as no such event of default or event which with the lapse of time or notice or both would constitute an event of default under the Security Agreement has occurred and is then continuing, proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of its obligations under the Lease or to recover damages for the breach thereof; provided, however, that the Lessor shall not, without the prior written consent of the Assignee, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of Section 15.2 of the Lease.

12. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart and deliver it to the other party.

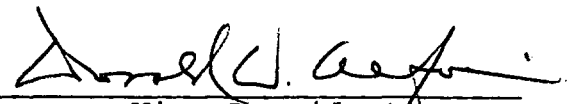
13. Notwithstanding anything contained herein to the contrary, each representation, warranty and agreement herein made on the part of the Lessor is made and intended not as a personal representation, warranty or agreement by said institution or for the purpose or with the intention of binding said institution personally but is made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement) and this Agreement is

executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as Owner Trustee under the Trust Agreement; and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution on account of any representation, warranty or agreement herein of the Lessor (except in the case of its own gross negligence or wilful misconduct), either expressed or implied, all such personal liability, if any, being expressly waived and released by the Assignee and by all persons claiming by, through or under the Assignee; provided, however, that the Assignee or any person claiming by, through or under the Assignee making claim hereunder may look to said Trust Estate for satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

CONTINENTAL ILLINOIS NATIONAL
BANK AND TRUST COMPANY OF
CHICAGO, not individually but
solely as owner trustee under
the Trust Agreement,

by


Vice President

[Seal]

Attest:


Trust Officer

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent as
aforesaid,

by


Assistant Vice President

[Seal]

Attest:

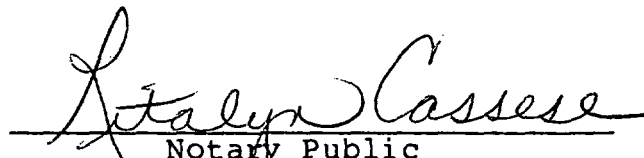

Corporate Trust Officer

STATE OF ~~ILLINOIS~~ ^{NEW YORK},)
COUNTY OF ~~COOK~~ ^{NEW YORK},) ss.:

On the 6th day of June, 1980, before me personally appeared DONALD W. ALFVIN, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.


[Notarial Seal]

My Commission expires


Notary Public
RITALYN CASSESE
Notary Public, State of New York
No. 41-4657019
Qualified in Queens County
Certificate Filed in New York County
Commission Expires March 30, 1981

STATE OF MARYLAND,)
CITY OF BALTIMORE,) ss.:

On the 9th day of June, 1980, before me personally appeared N. L. MASON, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.


Notary Public

[Notarial Seal]

My Commission expires 7-1-82

LESSEE'S CONSENT AND AGREEMENT

The undersigned, CONSUMERS POWER COMPANY (the "Lessee"), the lessee named in the Equipment Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Assignment"), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities (except those payments provided for under §§ 5(a), 6, 7(b) and 19 of the Lease which are payable to or for the benefit of the Owner Participant or the institution serving as Owner Trustee in its individual capacity and except those payments provided for under §§ 8(b)(ii) and 22(c) (but with respect to 22(c) only so long as no default or event of default under the Security Agreement has occurred and is continuing) of the Lease) and other moneys provided for in the Lease (which moneys are hereinafter called the "Payments") due and to become due under the Lease or otherwise in respect of the Equipment (as defined in the Lease) leased thereunder, directly to Mercantile-Safe Deposit and Trust Company, not in its individual capacity but solely as Agent (the "Assignee"), the assignee named in the Assignment, in immediately available funds to the Assignee at the address for payments specified in Schedule I hereto (or at such other address as may be furnished in writing to the Lessee by the Assignee);

(2) in accordance with and subject to the provisions of the Assignment, the Assignee shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Assignee were named therein as the Lessor;

(3) the Assignee shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(4) the Lease shall not, without the prior written consent of the Assignee, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(5) the Lessee will mail or deliver one copy of all notices, statements, documents or schedules given or delivered by it pursuant to the Lease or the Assignment to the Assignee.

This Consent and Agreement, when accepted by the Assignee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

CONSUMERS POWER COMPANY,
as Lessee,

by

[Corporate Seal]

Title:

Attest:

Title:

The foregoing Consent and Agreement is hereby
accepted as of the day of 1980.

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, not in its
individual capacity but solely
as Agent,

by

[Corporate Seal]

Title: Assistant Vice President

Attest:

Title: Corporate Trust Officer

Schedule I

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY

All payments to the Assignee shall be made by bank wire transfer of immediately available funds for credit, not later than 11:00 a.m., New York time, to:

Annapolis Banking and Trust Company
Main Street and Church Circle
Annapolis, Maryland
Account No. 52076-1 in the name of
Mercantile-Safe Deposit and Trust Company,
marked "Re: Consumers Power Company 5/15/80"

Copies of confirmations of payments shall be delivered or mailed to:

Mrs. K. M. Tollberg
Assistant Vice President
2 Hopkins Plaza
P. O. Box 2258
Baltimore, Maryland 21203

LESSEE'S CONSENT AND AGREEMENT

The undersigned, CONSUMERS POWER COMPANY (the "Lessee"), the lessee named in the Equipment Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Assignment"), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities (except those payments provided for under §§ 5(a), 6, 7(b) and 19 of the Lease which are payable to or for the benefit of the Owner Participant or the institution serving as Owner Trustee in its individual capacity and except those payments provided for under §§ 8(b)(ii) and 22(c) (but with respect to 22(c) only so long as no default or event of default under the Security Agreement has occurred and is continuing) of the Lease) and other moneys provided for in the Lease (which moneys are hereinafter called the "Payments") due and to become due under the Lease or otherwise in respect of the Equipment (as defined in the Lease) leased thereunder, directly to Mercantile-Safe Deposit and Trust Company, not in its individual capacity but solely as Agent (the "Assignee"), the assignee named in the Assignment, in immediately available funds to the Assignee at the address for payments specified in Schedule I hereto (or at such other address as may be furnished in writing to the Lessee by the Assignee);

(2) in accordance with and subject to the provisions of the Assignment, the Assignee shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Assignee were named therein as the Lessor;

(3) the Assignee shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(4) the Lease shall not, without the prior written consent of the Assignee, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof; and